

AMENDED IN SENATE APRIL 24, 2006

SENATE BILL

No. 1542

Introduced by Senator Migden

(Principal coauthor: Assembly Member Ridley-Thomas)

(Coauthor: Senator Kuehl)

(Coauthor: Assembly Member Mountjoy)

February 23, 2006

An act to add Section 9954 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, as amended, Migden. ~~Motor vehicles~~—Vehicles: key information access.

(1) Existing law imposes various requirements upon manufacturers of motor vehicles sold or leased in this state with regard to disclosing information and providing equipment. A violation of the laws regulating motor vehicles is a crime.

This bill would require a motor vehicle manufacturer of a motor vehicle sold or leased in this state on or after January 1, 2008, with a model-year of 2008 or later, except as specified, to provide a means whereby the registered owner of that motor vehicle or a family member, through a registered locksmith, can access information, and only that information, that is necessary to permit the reproduction of a key or other functionally similar device, by a registered locksmith, that will allow the registered vehicle's owner or family member to enter, start, and operate the vehicle.

This bill would require the registered locksmith to follow certain identity verification procedures before he or she could request the information from the manufacturer, to turn over certain information to

the registered owner or family member, and to destroy all information accessed from the manufacturer after completing the reproduction of the key or other functionally similar device. A manufacturer would be required to make this information available by telephone or electronically 24 hours a day and 7 days a week. A manufacturer would also be required to include a security process to verify the identity of the registered locksmith.

Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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~~This bill would require a motor vehicle manufacturer of a motor vehicle sold or leased in this state on or after January 1, 2008, with a model-year of 2008 or later, to provide a means whereby the registered owner of that motor vehicle can access information, and only that information, that is necessary to permit the reproduction of a key or other functionally similar device, or the performance of any necessary service, that will allow the registered vehicle's owner to enter, start, and operate his or her vehicle. A manufacturer would be required to make such information available 24 hours each day and 7 days each week.~~

~~Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

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Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature hereby finds and declares all of*
2 *the following:*

3 *(a) There are over 28 million registered motor vehicles in*
4 *California, and those vehicles are an essential part of California*
5 *residents' work and mobility.*

6 *(b) A key or functionally similar device that will allow a*
7 *registered vehicle's owner to enter, start, and operate his or her*
8 *vehicle is a critical and necessary part of motor vehicle*
9 *ownership, without which a person cannot perform the basic*
10 *functions of gaining entry to a motor vehicle or starting its*
11 *engine.*

12 *(c) A registered owner of a motor vehicle has the right to*
13 *access the information necessary to gain entry to and operate his*
14 *or her motor vehicle in a timely, convenient, and reliable*
15 *manner.*

16 *(d) It is the intent of the Legislature, in enacting this act, to*
17 *give motorists better access to this necessary information, while*
18 *at the same time protecting the security of that information and*
19 *the vehicle. This act is intended to allow appropriate vehicle*
20 *security while providing essential and necessary consumer*
21 *access.*

22 *SEC. 2. Section 9954 is added to the Vehicle Code, to read:*

23 *9954. (a) This section applies only to vehicles sold or leased*
24 *in this state on or after January 1, 2008, with a model-year of*
25 *2008 or later.*

26 *(b) A motor vehicle manufacturer of a motor vehicle sold or*
27 *leased in this state shall provide the means whereby the*
28 *registered owner of that motor vehicle, through a registered*
29 *locksmith, can access the information, and only that information,*
30 *that is necessary to permit the reproduction of a key or other*
31 *functionally similar device by the registered locksmith that will*
32 *allow the registered vehicle's owner to enter, start, and operate*
33 *his or her vehicle. The means to access this information shall be*
34 *available by telephone or electronically 24 hours a day and*
35 *seven days a week, as follows:*

36 *(1) For a motor vehicle with a model year of 2008 or later,*
37 *when a registered locksmith is requested by the motor vehicle's*
38 *registered owner or the registered owner's family member, to*

1 reproduce a key or other functionally similar device that will
2 allow the vehicle to be entered, started, and operated, and the
3 information is needed from the vehicle manufacturer in order to
4 produce the requested key or other functionally similar device,
5 the registered locksmith shall visually verify the identity of the
6 requesting party through that party's driver's license; shall
7 visually verify that the registration of the vehicle matches the
8 requesting party's identity and address (or last name and
9 address if the requesting party is a family member of the
10 registered owner); and shall visually verify that the vehicle
11 identification number of the vehicle matches with the vehicle
12 identification number on the registration. Upon satisfactory
13 verification of all three requirements, the registered locksmith
14 shall record that information in a record log and proceed to
15 access the needed information from the vehicle manufacturer.

16 (A) Upon completing the services, the registered locksmith
17 shall give any key code information obtained from the vehicle
18 manufacturer to the registered owner, or if applicable, the
19 owner's family member, and shall destroy all information
20 accessed from the vehicle manufacturer in his or her possession.

21 (B) Except in cases of fraud or misappropriation, a registered
22 locksmith that follows these procedures shall incur no liability
23 for theft of the vehicle related to the locksmith's production of a
24 replacement key or functionally similar device that will allow the
25 vehicle to be entered, started, and operated.

26 (2) (A) For a motor vehicle with a model year of 2008 or
27 later, when a vehicle manufacturer receives a request from a
28 registered locksmith for information to enable the locksmith to
29 produce a replacement key or other functionally similar device
30 that will allow the vehicle to be entered, started, and operated,
31 and that request is made at the behest of the vehicle's registered
32 owner or the registered owner's family member, the vehicle
33 manufacturer shall require the registered locksmith to confirm
34 the locksmith's registration with the manufacturer's registry;
35 provide the security password issued by the manufacturer; and
36 comply with any other reasonable authentication procedure. The
37 manufacturer shall also require the registered locksmith to
38 confirm the locksmith's visual identity verification, pursuant to
39 paragraph (1). Upon satisfactory verification of these
40 requirements, and upon presentation of the vehicle identification

1 *number and model number, the vehicle manufacturer shall*
2 *provide to the registered locksmith, for the vehicle identified by*
3 *the vehicle identification number and model number, the*
4 *information necessary to enable reproduction of a key or other*
5 *functionally similar device that allows the vehicle to be entered,*
6 *started, and operated.*

7 *(B) A vehicle manufacturer that follows these procedures shall*
8 *incur no liability for theft of the vehicle related to furnishing the*
9 *information to a registered locksmith for the production of a*
10 *replacement key or functionally similar device that will allow the*
11 *vehicle to be entered, started, and operated.*

12 *(d) For the purposes this section the following definitions*
13 *apply:*

14 *(1) A “registered locksmith” means a locksmith licensed and*
15 *bonded in California that has registered with a motor vehicle*
16 *manufacturer, and has been issued a registry number and*
17 *security password by the manufacturer.*

18 *(2) A registered owner, as defined in Section 505, also*
19 *includes a lessee of the vehicle when the lessee’s name appears*
20 *on the vehicle registration.*

21 *(3) “Information” includes, but is not limited to, the vehicle’s*
22 *key code and, if applicable, immobilizer or access code, and its*
23 *successor technology and terminology.*

24 *(e) (1) This section does not apply to a vehicle line of a motor*
25 *vehicle manufacturer that on January 1, 2008, does not provide*
26 *for the reproduction of a key or other functionally similar device*
27 *that allows the vehicle to be entered, started, and operated, by*
28 *anyone other than the vehicle manufacturer itself and only itself,*
29 *provided that the vehicle manufacturer operates a telephone or*
30 *electronic request line 24 hours a day and seven days a week,*
31 *and upon a request of the registered owner or family member of*
32 *the registered owner of the vehicle, a replacement key or other*
33 *functionally similar device that will allow the vehicle to be*
34 *entered, started, and operated, is furnished to the registered*
35 *owner at a reasonable cost within one day of the request.*

36 *(2) If subsequent to January 1, 2008, a vehicle line of the*
37 *manufacturer exempted by this subdivision provides for the*
38 *reproduction by anyone, other than the vehicle manufacturer*
39 *itself, of a key or other functionally similar device that will allow*

1 *the vehicle to be entered, started, and operated, this section shall*
2 *apply to that vehicle line.*

3 *(3) This subdivision shall remain operative until January 1,*
4 *2013, and as of that date shall become inoperative, unless a later*
5 *enacted statute, that is enacted before January 1, 2013, deletes*
6 *or extends that date.*

7 *SEC. 3. No reimbursement is required by this act pursuant to*
8 *Section 6 of Article XIII B of the California Constitution because*
9 *the only costs that may be incurred by a local agency or school*
10 *district will be incurred because this act creates a new crime or*
11 *infraction, eliminates a crime or infraction, or changes the*
12 *penalty for a crime or infraction, within the meaning of Section*
13 *17556 of the Government Code, or changes the definition of a*
14 *crime within the meaning of Section 6 of Article XIII B of the*
15 *California Constitution.*

16 ~~SECTION 1. The Legislature hereby finds and declares all of~~
17 ~~the following:~~

18 ~~(a) There are over 28 million registered motor vehicles in~~
19 ~~California, and those vehicles are relied upon heavily by~~
20 ~~California residents to conduct everyday activities.~~

21 ~~(b) A key or functionally similar device is a fundamental and~~
22 ~~critical component of a motor vehicle, without which a person~~
23 ~~cannot perform the basic functions of gaining entry to a motor~~
24 ~~vehicle or starting its engine.~~

25 ~~(c) The ability to replace a key, or functionally similar device,~~
26 ~~to a motor vehicle in a timely, convenient, reliable, and~~
27 ~~affordable manner is not only of general benefit to automotive~~
28 ~~consumers, but it is also essential to the safety and well-being of~~
29 ~~those consumers.~~

30 ~~(d) Manufacturers have made great strides in improving~~
31 ~~vehicle security to enhance motorists' safety and deter theft.~~
32 ~~However, the increasingly complex systems being devised have~~
33 ~~made it more difficult for motorists who lock themselves out of~~
34 ~~their vehicles or lose their keys to regain access to, and the use~~
35 ~~of, their vehicles in a timely manner. Limited access to~~
36 ~~information, including key, transponder, and immobilizer codes,~~
37 ~~and related information, has caused inconvenience, delay, extra~~
38 ~~cost, and risk to many vehicle owners. Without access to~~
39 ~~necessary information, many owners have had no choice but to~~
40 ~~obtain service and purchase replacement keys from members of~~

1 the manufacturer's authorized dealer network, rather than from a
2 service provider of the motorist's choice. Dealer networks are
3 generally only available during regular business hours, and
4 motorists may have no choice but to have the vehicle towed to
5 the dealer rather than serviced on site.

6 (e) ~~Consumers' current limited access to necessary~~
7 ~~information causes not only significant inconvenience and higher~~
8 ~~costs to them, but threatens their safety and well-being,~~
9 ~~especially under circumstances where a motorist is stranded~~
10 ~~alone after business hours or in a remote location.~~

11 (f) ~~A registered owner of a motor vehicle has the fundamental~~
12 ~~right to both of the following:~~

13 (1) ~~To access the information necessary to gain entry to and~~
14 ~~operate his or her motor vehicle in a timely, convenient, reliable,~~
15 ~~and affordable manner that does not compromise his or her safety~~
16 ~~or the security of the vehicle.~~

17 (2) ~~To select the qualified service provider of his or her choice~~
18 ~~to assist in regaining access to, and use of, his or her motor~~
19 ~~vehicle.~~

20 (g) ~~It is the intent of the Legislature, in enacting this act, to~~
21 ~~give motorists better access to necessary information, while at~~
22 ~~the same time protecting the security of that information. It is~~
23 ~~critical to protect consumers from both automobile theft and from~~
24 ~~the risks that arise from limited access to information necessary~~
25 ~~to allow them to expeditiously regain entrance to, and use of,~~
26 ~~their vehicles, and this act is intended to provide the appropriate~~
27 ~~balance for these two important concerns.~~

28 SEC. 2. ~~Section 9954 is added to the Vehicle Code, to read:~~

29 9954. (a) ~~A motor vehicle manufacturer of a motor vehicle~~
30 ~~sold or leased in this state shall provide a means whereby the~~
31 ~~registered owner of that motor vehicle can access information,~~
32 ~~and only that information, that is necessary to permit the~~
33 ~~reproduction of a key or other functionally similar device or the~~
34 ~~performance of any necessary service, that will allow the~~
35 ~~registered vehicle's owner to enter, start, and operate his or her~~
36 ~~vehicle. The means to access this information shall allow access~~
37 ~~to this information 24 hours each day and seven days each week.~~

38 (b) ~~Subdivision (a) shall apply only to vehicles sold or leased~~
39 ~~in this state on or after January 1, 2008, with a model year of~~
40 ~~2008 or later.~~

1 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
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